

PATENT
Attorney Docket No. 0320-0017

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.: 10/015/868)	Customer No. : 26568
Applicant: Michael D. Hooven)	Confirmation No.: 7290
Filed: December 12, 2001)	
Title: TRANSMURAL ABLATION)	
DEVICE WITH THIN ELECTRODES)	
Art Unit: 3739)	
Examiner: Victoria W. Chen)	

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

**DECLARATION OF PRIOR INVENTION IN THE
UNITED STATES PURSUANT TO 37 C.F.R. §1.131**

Purpose of Declaration

1. This Declaration is to establish completion of the invention claimed in this application in the United States at a date prior to December 8, 2000, that being the effective date of U.S. Patent No. 6,558,380 to Lingenfelder et al. that was cited by the Examiner in the Office Action dated February 6, 2009.
2. The person making this declaration is Michael D. Hooven, the inventor of the subject matter claimed in the pending application.

Facts and Documentary Evidence

3. The pending claims require, in part, an ablation apparatus having first and second jaw assemblies in which each jaw assembly includes an internal jaw support member and an insulative cover that sufficiently surrounds the internal jaw support member to prevent contact of the internal jaw support member with a selected ablation area. With reference to patent application publication number US 2002/0107513, the publication of the pending application, the features of claims set forth above are disclosed in Fig. 32, which is described in paragraph numbers [0108] – [0110]. It is likewise found in the parent application, Ser. No. 09/747,609, filed on December 22, 2000, which was published as patent application publication number 2001/0031961 and issued as U.S. Patent No. 6,546,935.

4. The drawings that form the basis of Fig. 32 were provided to my patent attorney at least as early as November 6, 2000, as shown in the facsimile transmission imprint shown in the attached drawing that formed the basis of Fig. 32.

5. From this document it can be seen that the invention in this application was made at least by the date of November 6, 2000, which is a date earlier than the effective date of Lingenfelder et al. US 6,558,380, relied upon by the Examiner in rejecting the pending claims.

Diligence

6. Approximately a month intervened between the time that the undersigned provided his patent attorney with the attached drawing and the effective filing date of the

Lingenfelder et al. reference. The inventor's priority application was filed just two weeks later. Accordingly, the undersigned believes that diligence from a time prior to the date of the reference up to the filing of the priority application is established.

Time of Presentation of Declaration

7. This Declaration is being submitted prior to final rejection.

Declaration

8. I declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under §1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application on any patent issued thereon.



Michael D. Hooven

Date: 3/3/09

Country of Citizenship: United States of America

Residence: Cincinnati, Ohio

Post Office Address: 7778 Bennington Drive
Cincinnati, Ohio 45241

SECTION B-B
SCALE 20:1

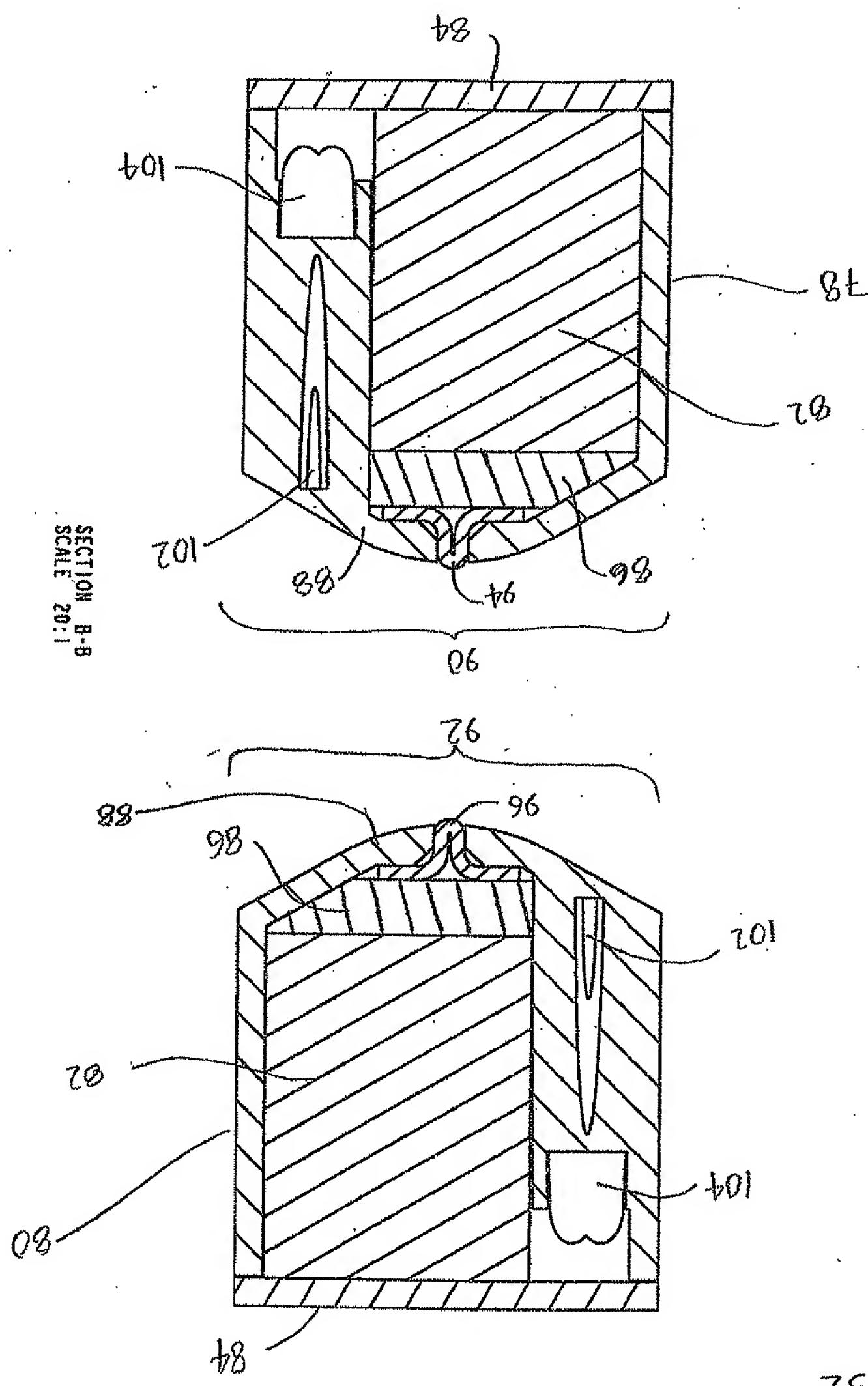


Fig. 32